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WTO Appellate Body Upholds U.S. Antidumping Determination
In Case Involving Japanese Steel

WASHINGTON - The Office of the U.S. Trade Representative announced today that the World Trade Organization (WTO) Appellate Body upheld a previous WTO panel report that stated the United States had acted consistently with its WTO obligations in a case involving the application of US trade remedy laws to Japanese corrosion-resistant carbon steel flat products. Japan had appealed the panel report, which addressed a determination by the U.S. Department of Commerce to leave in place an antidumping duty order on these Japanese steel products as a result of a "sunset review."

Such reviews are part of the process of administering the U.S. antidumping duty law. The United States remains committed to using its trade remedy laws to maintain a level playing field.

The Appellate Body findings are significant because they allow the United States to keep in place the antidumping duty order on these Japanese steel products. The Appellate Body agreed with the United States that Commerce had relied upon sufficient evidence in this particular sunset review, and did not disturb the Panel's finding that Commerce had properly conducted the review.

The Appellate Body, however, reversed the Panel's conclusion that Commerce's Sunset Policy Bulletin, which provides guidance on Commerce's conduct of sunset reviews, can only be challenged with respect to its application in a particular sunset review. This finding did not, however, affect the Appellate Body's main finding that the United States may maintain the antidumping duty order at issue. Further, Japan did not challenge those aspects of an earlier panel report that confirmed that US laws and regulations governing sunset reviews comply with the WTO Antidumping Agreement.

Japan also did not challenge any aspects of the panel report related to the US International Trade Commission's separate determination that revocation of the order would be likely to lead to a continuation or recurrence of injury.

Background:

Every five years, the U.S. antidumping duty law requires that the Commerce Department conduct a "sunset review" to examine whether dumping is likely to continue or recur if the duties are removed. The USITC must conduct a "sunset review" to examine whether revocation of the order is likely to lead to continuation or recurrence of injury to the U.S. industry within the reasonably foreseeable future. In the case involving Japanese steel, the Commerce Department and the USITC determined that dumping and injury were likely to continue or recur absent the order. Therefore, the United States kept the duties in place.

On January 30, 2002, Japan requested WTO dispute settlement consultations with the United States regarding the U.S. system of sunset reviews. Consultations were unsuccessful, and a panel was established on May 22, 2002. In a report circulated on August 14, 2003, the panel found that the United States' action was wholly consistent with its international obligations under the WTO.

On September 15, 2003, Japan appealed five of the panel's findings. The Appellate Body rejected several of Japan's claims, and concluded that the United States had not violated the WTO Antidumping Agreement.

The Panel and Appellate Body reports are expected to be adopted by the WTO Dispute Settlement Body in January, 2004.

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